

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Richard C. Carver,

Plaintiff,

v.

Susan Brown,

Defendant.

Case No. 2:24-cv-4070

**District Judge Algenon L. Marbley
Magistrate Judge Kimberly A. Jolson**

REPORT AND RECOMMENDATION

On October 16, 2024, Plaintiff filed this action alleging civil rights violations against Franklin County Child Support Enforcement Agency Director Susan Brown. (Doc. 1-1). Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis*. (Doc. 1).

The Supreme Court, in *Adkins v. E.I. DuPont de Nemours & Co., Inc.*, set forth the legal standard applicable to a motion to proceed *in forma pauperis*. 335 U.S. 331 (1948). An affidavit of poverty is sufficient if it reflects that the plaintiff cannot pay the court's filing fee without depriving himself the "necessities of life." *Id.* at 339 (internal quotation marks omitted). Although the plaintiff need not be totally destitute to proceed *in forma pauperis*, paying the filing fee must be more than a mere hardship. *See Foster v. Cuyahoga Dep't of Health & Human Servs.*, 21 F. App'x 239, 240 (6th Cir. 2001) (noting that "the question is whether the court costs can be paid without undue hardship"). Consequently, unless it is clear that the one-time payment of the Court's filing fee will render the plaintiff unable to provide for himself, the Court cannot grant him *in forma pauperis* status. *See Adkins*, 335 U.S. at 339.

In his affidavit, Plaintiff says he has two jobs and earns \$3,000 per month. (Doc. 1 at 2). While Plaintiff lists numerous monthly expenses, his income per month is greater than his monthly expenses. (*Id.* at 3 (listing expenses totaling \$2,691 per month)). And he states he has \$2,800 in

either cash on hand or money in a checking or savings account. (*Id.*). In short, it does not appear that paying the one-time filing fee would cause Plaintiff to be deprived the necessities of life. *See Adkins*, 335 U.S. at 339; *see also Bush v. Ohio Dep't of Rehab. & Corr.*, No. 2:05-CV-0667, 2007 WL 4365381, at *1 (S.D. Ohio Dec. 10, 2007) (noting that “[i]n *forma pauperis* status is usually reserved either for indigent prisoners or for persons . . . who would truly be required to forego food, shelter, clothing, or some other necessity were they to devote any of their scant resources to paying a judicial filing fee”).

Accordingly, the Undersigned **RECOMMENDS** Plaintiff’s Motion for Leave to Proceed *in forma pauperis* (Doc. 1) be **DENIED**. If this report and recommendation is adopted, the Undersigned also **RECOMMENDS** Plaintiff be ordered to pay the filing fee **within ten (10) days** of the date of that order.

Procedure on Objections

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence, or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo* and also operates as a waiver of the right to appeal the decision of

the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Date: October 22, 2024

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE